

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

CHARLES RAY HINTON                                 §  
VS.   § CIVIL ACTION NO. 1:05cv501  
DEBRA M. HARRELL                                 §

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Charles Ray Hinton, an inmate at the Stiles Unit, proceeding *pro se*, brought this lawsuit pursuant to 42 U.S.C. § 1983 against Debra M. Harrell.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends plaintiff's complaint be dismissed as barred by sanctions previously imposed and pursuant to 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes plaintiff's objections are without merit. Further, plaintiff's claims are frivolous and fail to state a claim upon which relief may be granted. Plaintiff contests the alleged deprivation of property without due process. However, "[t]he Due Process Clause is not implicated by a state official's negligent act causing unintended loss of

property and even intentional destruction of an inmate's property does not raise a constitutional claim if an adequate post-deprivation remedy exists." *Simmons v. Poppell*, 837 F.2d 1243, 1244 (5th Cir. 1988) (citing *Daniels v. Williams*, 474 U.S. 327 (1986) and *Hudson v. Palmer*, 468 U.S. 517 (1984)); *Allen v. Thomas*, 388 F.3d 147, 149 (5th Cir. 2004). Texas provides such a remedy. *See Murphy v. Collins*, 26 F.3d 541, 543 (5th Cir. 1994); *Dickerson v. City of Denton*, 298 F.Supp.2d 537, 542 (E.D. Tex. 2004). Accordingly, plaintiff's claim regarding his property is frivolous and fails to state a claim upon which relief may be granted.

O R D E R

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED at Beaumont, Texas, this 30th day of August, 2005.



\_\_\_\_\_  
MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE